

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED HOLBROOK, JOHN WALLER,
FRANK JACKSON and LUCAS
ROSSAS VILLAS, individually and on
behalf of others similarly situated,

Case No. 08-12179

HONORABLE SEAN F. COX
United States District Judge

Plaintiffs,

v.

GENTEK, INC., a foreign
corporation

Defendant.

ORDER STRIKING DEFENDANT'S RESPONSE BRIEF [Doc. No. 59],
PERMITTING DEFENDANTS TO FILE CROSS-MOTION FOR SUMMARY
JUDGMENT AND RESETTING BRIEFING DEADLINES AND HEARING DATE

The instant case is scheduled for a hearing before the Court on Thursday, April 29, 2010 on Plaintiffs' motion for summary judgment [Doc. No. 52]. A response brief was filed by the Defendant on March 22, 2010 [Doc. No. 59]. Per this case's Scheduling Order [*See* Doc. No. 36], the cutoff date for filing motions in this matter passed on March 10, 2010.

The Defendant's response brief contains arguments not only against granting summary judgment for the Plaintiffs, but also contains arguments for granting summary judgment in favor of the Defendant. [*See* Doc. No. 59, pp.2-4]. Filing what amounts to a cross-motion for summary judgment within a response brief is improper, and the Court therefore **ORDERS** Defendant's response brief [Doc. No. 52] **STRICKEN**, and **ORDERS** the Defendant to file a proper response brief, if any, **no later than Friday, April 9, 2010**.

Despite the passing - on March 10, 2010 - of the motion cutoff deadline, the Court will

nonetheless allow the Defendant to file a motion for summary judgment for consideration alongside Plaintiffs' motion for summary judgment [Doc. No. 52]. Such motion, if any, must be filed **no later than Friday, April 9, 2010**.

All response and/or reply briefs filed by the parties must comport with the Court's usual practice guidelines and filing deadlines. Plaintiff's motion for summary judgment, originally scheduled for oral argument on April 29, 2010, will be **RESCHEDULED** for **Thursday, May 27, 2010 at 3:00 p.m.**

IT IS SO ORDERED.

s/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: March 26, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 26, 2010, by electronic and/or ordinary mail.

s/Jennifer Hernandez
Case Manager